

CALIFORNIA REGIONAL WATER QUALITY CONTROL BOARD
CENTRAL VALLEY REGION

ADMINISTRATIVE CIVIL LIABILITY ORDER R5-2019-0501

MANDATORY PENALTY
IN THE MATTER OF

CITY OF ALTURAS
ALTURAS WASTEWATER TREATMENT PLANT
MODOC COUNTY

WDID NO. 5A25010001

This Administrative Civil Liability Order (Order) is issued to the City of Alturas (hereafter Discharger), Alturas Wastewater Treatment Plant (hereafter Facility) pursuant to California Water Code (Water Code) section 13385, which authorizes the imposition of Administrative Civil Liability (ACL). This Order is based on findings that the Discharger violated provisions of Waste Discharge Requirements (WDRs) Order R5-2014-0033 (NPDES No. CA0078921).

The Assistant Executive Officer of the California Regional Water Quality Control Board, Central Valley Region (Central Valley Water Board) finds the following:

1. The Discharger owns and operates the Alturas Wastewater Treatment Plant. Treated wastewater is discharged from Discharge Point D-001 to the Pit River, a water of the United States.
2. On 27 March 2014, the Central Valley Water Board issued WDRs Order R5-2014-0033, which contained new requirements and rescinded WDRs Order R5-2006-0103, except for enforcement purposes. WDRs Order R5-2014-0033 was effective on 1 May 2014.
3. On 9 October 2015 Central Valley Water Board staff issued the Discharger a Notice of Violation and draft Record of Violations for effluent limitation violations that occurred from 30 June 2015 through 31 July 2015.
4. Water Code sections 13385(h) and (i) require the assessment of mandatory penalties and state, in part, the following:

Water Code section 13385(h)(1) states:

Notwithstanding any other provision of this division, and except as provided in subdivisions (j), (k), and (l), a mandatory minimum penalty of three thousand dollars (\$3,000) shall be assessed for each serious violation.

Water Code section 13385 (h)(2) states,

For the purposes of this section, a 'serious violation' means any waste discharge that violates the effluent limitations contained in the applicable waste discharge requirements for a Group II pollutant, as specified in Appendix A to Section 123.45 of Title 40 of the Code of Federal Regulations, by 20 percent or more or for a Group I pollutant, as

specified in Appendix A to Section 123.45 of Title 40 of the Code of Federal Regulations, by 40 percent or more.

Water Code section 13385(i)(1) states

Notwithstanding any other provisions of this division, and except as provided in subdivisions (j), (k), and (l), a mandatory minimum penalty of three thousand dollars (\$3,000) shall be assessed for each violation whenever the person does any of the following four or more times in any period of six consecutive months, except that the requirements to assess the mandatory minimum penalty shall not be applicable to the first three violations.

- a) violates a waste discharge requirement effluent limitation;
- b) fails to file a report pursuant to California Water Code section 13260;
- c) files an incomplete report pursuant to California Water Code section 13260; or
- d) violates a toxicity effluent limitation contained in the applicable waste discharge pollutant-specific effluent limitations for toxic pollutants.

5. Water Code section 13323 states, in part:

Any executive officer of a regional board may issue a complaint to any person on whom administrative civil liability may be imposed pursuant to this article. The complaint shall allege the act or failure to act that constitutes a violation of law, the provision authorizing civil liability to be imposed pursuant to this article, and the proposed civil liability.

6. On 15 July 2016, the Assistant Executive Officer of the Central Valley Water Board issued Administrative Civil Liability Complaint No. R5-2016-0538 (Complaint) for mandatory minimum penalties in the amount of \$15,000 for effluent limitation violations that occurred from 30 June 2015 through 31 July 2015. The Discharger waived its right to a hearing within 90 days in order to engage in settlement discussion and submitted the Waiver Form attached to the Complaint.

7. Water Code section 13385 subdivision (k) states:

- (1) In lieu of assessing all or a portion of the mandatory minimum penalties pursuant to subdivisions (h) and (i) against a publicly owned treatment works serving a small community, the state board or the regional board may elect to require the publicly owned treatment works to spend an equivalent amount towards the completion of a compliance project proposed by the publicly owned treatment works, if the state board or the regional board finds all of the following:
 - (A) The compliance project is designed to correct the violations within five years.
 - (B) The compliance project is in accordance with the enforcement policy of the state board, excluding any provision in the policy that is inconsistent with this section.
 - (C) The publicly owned treatment works has prepared a financing plan to complete the compliance project.
- (2) For the purposes of this subdivision, "a publicly owned treatment works serving a small community" means a publicly owned treatment works serving a population of 10,000 persons or fewer or a rural county, with a financial hardship as determined by the state board after considering such factors as median income of the residents, rate of

unemployment, or low population density in the service area of the publicly owned treatment works.

8. The State Water Resources Control Board has determined that the Discharger's wastewater treatment plant is a publicly owned treatment works serving a small community with a financial hardship within the meaning of Water Code section 13385 subdivision(k)(2).
9. On 10 August 2016, the Discharger submitted a proposed compliance project to address inflow and infiltration problems in the collection system that may be affecting the Facility's performance and assess different options to eliminate surface water discharge from the Facility. The Discharger applied for grant funding to aid in the planning process in the Fall of 2016 and received the approved planning grant for \$500,000 on 6 December 2017.
10. On 12 December 2017, the Discharger submitted accounting records demonstrating that they had spent \$29,998.20 on engineering consulting fees and monitoring equipment to determine options to eliminate surface water discharge from the Facility and bring the discharge into compliance. The \$29,998.20 is in excess of the mandatory minimum penalty required by water code sections 13385(h) and (i), was spent prior to receiving the approved planning grant on 6 December 2017, and was not reimbursed from the grant.
11. The Central Valley Water Board finds that the compliance project has been designed to correct the violations that led to the issuance of the Complaint and is in accordance with the State Water Resource Control Board's Water Quality Enforcement Policy (Enforcement Policy).
12. This Order constitutes a settlement of the violations herein mentioned. Notice of this settlement was published on the Central Valley Water Board's website, and was provided to interested parties. The 30-day public notice and comment period mandated by Federal regulations (40 CFR 123.27) has expired.
13. Issuance of this Administrative Civil Liability Order to enforce CWC Division 7, Chapter 5.5 is exempt from the provisions of the California Environmental Quality Act (Pub. Resources Code section 21000 et seq.), in accordance with California Code of Regulations, title 14, section 15321(a)(2).

IT IS HEREBY ORDERED, pursuant to Water Code sections 13385, that:

1. The City of Alturas, Alturas Wastewater Treatment Plant, its agents, successors and assignees, shall be assessed Administrative Civil Liability in the amount of **fifteen thousand dollars (\$15,000)**.
2. The entire \$15,000 is treated as a permanently suspended administrative civil liability as the Discharger has submitted proof to the Central Valley Water Board that the money spent toward the compliance project was equal to or greater than the suspended administrative liability.

Any person aggrieved by this action of the Central Valley Water Board may petition the State Water Board to review the action in accordance with Water Code section 13320 and California Code of Regulations, Title 23, Sections 2050 and following. The State Water Board must receive the petition by 5:00 p.m., 30 days after the date of this Order, except that if the thirtieth day following the date of this Order falls on a Saturday, Sunday, or state holiday, the petition must be received by the State Water Board by 5:00 p.m. on the next business day. Copies of the law and regulations applicable to filing petitions may be found on the Internet at:

http://www.waterboards.ca.gov/public_notices/petitions/water_quality or will be provided upon request.

This Order is effective immediately upon issuance.



Patrick Pulupa, Executive Officer

4/23/19

(Date)

Attachment A: Record of Violations

ATTACHMENT A
ADMINISTRATIVE CIVIL LIABILITY ORDER NO. R5-2019-0501

City of Alturas
Alturas Wastewater Treatment Plant
CALCULATION OF MANDATORY MINIMUM PENALTIES

RECORD OF VIOLATION (30 June 2015 – 31 July 2015) MANDATORY PENALTIES
(Data reported under Monitoring and Reporting Program R5-2014-0033)

| Violation Date | Discharge Point | Pollutant/ Parameter | Units | Effluent Limitation | Analytical/ Calculated Result | Percentage Over | Period | Violation Type | CIWQS Violation ID | MMP Amount |
|----------------|-----------------|----------------------|-------|---------------------|-------------------------------|-----------------|--------|------------------|--------------------|-----------------|
| 6/30/2015 | D-001 | Copper | µg/L | 3.7 | 5.0 | 135% | AMEL | Serious Group II | 993937 | \$3,000 |
| 6/30/2015 | D-001 | Zinc | µg/L | 13 | 19.8 | 152% | AMEL | Serious Group II | 993936 | \$3,000 |
| 7/31/2015 | D-001 | Zinc | µg/L | 13 | 47.2 | 363% | AMEL | Serious Group II | 995235 | \$3,000 |
| 7/14/2015 | D-001 | Zinc | µg/L | 21 | 47.2 | 225% | MDEL | Serious Group II | 995237 | \$3,000 |
| 7/31/2015 | D-001 | Copper | µg/L | 3.7 | 6.3 | 170% | AMEL | Serious Group II | 995236 | \$3,000 |
| TOTAL: | | | | | | | | | | \$15,000 |

Notes: Serious Group I: any waste discharge that exceeds the effluent limitations for a group I pollutant by 40% or more.
Serious Group II: any waste discharge that exceeds the effluent limitations for a group II pollutant by 20% or more.
Non-Serious Violation: A non-serious violation will be subject to MMPs if the discharger does any one of the following four or more times in any period of 180 days:
(a) violates a WDR effluent limitation;
(b) fails to file a report of waste discharge pursuant to California Water Code section 13260;
(c) files an incomplete report of waste discharge pursuant to California Water Code section 13260; or
(d) violates a whole effluent toxicity limitation where the WDRs do not contain pollutant-specific effluent limitations for any toxic pollutants.
AMEL: Final average monthly effluent limitation
MDEL: Final maximum daily effluent limitation